

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

LISA CRESS,
on behalf of herself, and as
GUARDIAN FOR MINOR K.C. and
as GUARDIAN FOR MINOR C.C.,
and DANIEL LOMBARDI,

Plaintiffs/Counter-
Defendants,

v.

VENTNOR CITY, ATLANTIC
COUNTY, THEODORE BERGMAN,
DOUGLAS BIAGI, MICHAEL
MILLER, SCHALLUS, JOHN DOE
#1-10 (MASKED MEN IN BLACK),
EGG HARBOR TOWNSHIP, JAMES
DONALDSON, JOSEPH BONSALE,
JAY WOODS, JASON RZEMEK,
JAMES SHARKEY, SEAN CLANCEY,
FRANK CULMONE, FRANCISCO
CORREA, DAVE DRUDING, STEVEN
SWANKOSKI, and TIM COLELLA,

Defendants/Cross-
Claimants/Cross-Defendants.

CIVIL NO. 08-1873 (NLH) (AMD)

MEMORANDUM
OPINION & ORDER

APPEARANCES:

COURTNEY ERIN BLACK
JENNIFER ANN BONJEAN
BONJEAN LAW GROUP PLLC
142 Joralemon Street, 5A
BROOKLYN, NY 11201

On behalf of plaintiffs

THOMAS B. REYNOLDS
REYNOLDS, DRAKE, WRIGHT & MARCZYK
29 NORTH SHORE ROAD
ABSECON, NJ 08201

On behalf of Ventnor City, Theodore Bergman, Douglas Biagi,
Michael Miller, Schallus

ROBERT P. MERENICH
GEMMEL, TODD & MERENICH, P.A.
767 SHORE ROAD
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LINWOOD, NJ 08221

On behalf of Egg Harbor Township, James Donaldson, Joseph
Bonsall, Jay Woods, Jason Rzemysk, Dave Druding, Steven
Swankoski, Tim Colella

JAMES T. DUGAN
ATLANTIC COUNTY DEPARTMENT OF LAW
1333 ATLANTIC AVENUE
8TH FLOOR
ATLANTIC CITY, NJ 08401

On behalf of Atlantic County and James Sharkey

HILLMAN, District Judge

In this case involving allegations of constitutional violations by defendant police officers in connection with the execution of a "no-knock" search warrant executed at night upon plaintiffs at their home, presently before the Court is the motion of plaintiffs to unseal the identities and deposition testimony of two confidential informants, who purportedly provided the probable cause for the search warrant; and

Previously, the Court having granted plaintiffs' request to take the depositions of the two confidential informants; and

Plaintiffs having deposed the confidential informants, and that testimony, along with their identities, currently remains under seal; and

Plaintiffs now requesting that the confidential informants'

identities and the transcripts of their depositions be unsealed;
and

Defendants having opposed plaintiffs' motion; and

The Court having reviewed the deposition transcripts; and

The Court recognizing that "unwarranted disclosure of government informers poses a very real threat to the continued vitality of the principle" of the informer's privilege, Cashen v. Spann, 334 A.2d 8, 15 (N.J. 1975), cert. denied, 423 U.S. 829 (1975); but

The Court also recognizing that where the disclosure of a confidential informant's identity is "is essential to a fair determination of a cause, the privilege must give way," Roviaro v. United States, 353 U.S. 53, 61 (1957); and

The Court having previously balanced the competing interests, as set forth in Cashen, when allowing plaintiffs to take the depositions of the confidential informants; and

The Court again considering those interests with regard to plaintiffs' current request to unseal the identities of the confidential informants and the content of their deposition testimony in order to support their claims;

Consequently,

IT IS HEREBY on this 13th day of June, 2012

ORDERED that plaintiffs' motion to unseal [133, 134] is GRANTED IN PART AND DENIED IN PART, as follows:

1. The deposition transcripts of the two confidential informants shall be unsealed, except that
 - a. The names and any other identifying information of the two informants shall be redacted and remain under seal,¹ and
 - b. The testimony of CI2 regarding prior cooperation with law enforcement unrelated to this case shall be redacted and remain under seal.
2. The determination of whether the confidential informants' identities will remain sealed for purposes of trial will be determined in pretrial hearings should the case proceed to trial.

s/ Noel L. Hillman

At Camden, New Jersey

NOEL L. HILLMAN, U.S.D.J.

¹The parties are directed to meet or confer and to agree on redacted transcripts consistent with the terms of this Order.